

FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

In re:)
)
MICHAEL ALLEN MIXSON,) Case No. 1:20-bk-12728-SDR
Debtor.) Chapter 11

**FIRST VOLUNTEER BANK’S OBJECTION TO DEBTOR’S SECOND AMENDED
PLAN OF REORGANIZATION AND TO DEBTOR’S AMENDED DISCLOSURE
STATEMENT DATED DECEMBER 20, 2021**

First Volunteer Bank (“**First Volunteer**”) objects to confirmation of debtor Michael Mixson’s Second Amended Plan of Reorganization filed December 7, 2021 (the “**2nd Amended Plan**”) (ECF No. 190) and to approval of his Amended Disclosure Statement dated December 20, 2021 (“**December 20th Disclosure Statement**”) (ECF No. 197) because both contain factual and legal errors.

With respect to the 2nd Amended Plan, First Volunteer incorporates by reference paragraphs 1 through 3 of its objection (ECF NO. 172) to Mr. Mixson’s first amended plan (“**1st Amended Plan**”), as the 2nd Amended Plan failed to resolve the issues First Volunteer raised in those paragraphs¹ with respect to the 1st Amended Plan. Additionally, First Volunteer objects to the 2nd Amended Plan in that it states that First Volunteer is both fully-secured and impaired.

¹ First Volunteer objected to the 1st Amended Plan because Ms. Mixson proposed to pay First Volunteer only \$650,000 at 5% when First Volunteer is fully secured and filed a claim for \$767,125.15 and is entitled to 6% interest. The 2nd Amended Plan also calls for payment of only \$650,000 at 5% (although the December 20th Disclosure Statement shows First Volunteer’s claim being paid in full at \$767,125). First Volunteer also objected to the inclusion in paragraph 3.3 of the 1st Amended Plan outdated language with respect to the priority of the liens held by First Volunteer and FMM Bushnell, LLC. Although the Court already has ruled that First Volunteer’s has a first lien on the Airpark Property, the 2nd Amended Plan also contains this language.

Mr. Mixson valued the property that stands as collateral for the First Volunteer loan (the “**Airpark Property**”) at \$850,000. *See* December 20th Disclosure Statement, p. 6.

With respect to the December 20th Disclosure Statement, First Volunteer objects to approval on the grounds that it states, incorrectly, that

1. First Volunteer has a second lien on the Airpark Property. *See* Class 3 description, pp. 8 and 12.
2. First Volunteer is impaired. *See* Class 3 description, pp. 8 and 12.

First Volunteer also objects to the following description of Class 6 claims to the extent Mr. Mixson is attempting to include First Volunteer as an unsecured creditor:

Unsecured Claims. This class is impaired. If Bushnell has priority and not impaired if First Volunteer has priority.

December 20th Disclosure Statement, p. 11.

RESPECTFULLY SUBMITTED on January 3, 2022.

JOHNSON & MULROONY, P.C.

By: s/ Elisabeth B. Donnovin

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CERTIFICATE OF SERVICE

I certify that a copy of the **FIRST VOLUNTEER BANK’S OBJECTION TO DEBTOR’S SECOND AMENDED PLAN OF REORGANIZATION AND TO DEBTOR’S AMENDED DISCLOSURE STATEMENT DATED DECEMBER 20, 2021** will be served on the following persons at the following email addresses via the court’s electronic notice system:

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and on the following via U.S. Mail, first-class, postage prepaid:

Michael Allen Mixson
6903 Jesse Connor Road
Chattanooga, TN 37421

Dated: January 3, 2022

s/ Elisabeth B. Donnovin
Elisabeth B. Donnovin